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Northern California Health and Welfare Trust Fund, et al.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DISTRICT COUNCIL 16 NORTHERN
CALIFORNIA HEALTH AND WELFARE
TRUST FUND; et al.,

Plaintiffs,

V.

BRYAN J. VALVERDE, an individual and dba
VALVERDE CO. and BRYAN J. VALVERDE
CO.,

Defendant.

Case No. 4:22-cv-04207-VC

**PLAINTIFFS' REQUEST FOR AN
EXTENSION OF TIME TO SERVE
DEFENDANT; [PROPOSED] ORDER
THEREON**

Plaintiffs respectfully request that the Court issue an Order extending the time to accomplish service of the Summons and Complaint on Defendant by ninety (90) days. Good cause exists for the granting of the extension as follows:

1. As the Court's records will reflect, Plaintiffs filed a Complaint in this matter on July 20, 2022 against Defendant BRYAN J. VALVERDE, an individual and dba VALVERDE CO. and BRYAN J. VALVERDE CO. (Dkt. No. 1.)

2. Despite repeated efforts by Plaintiffs through their process server, which began on July 29, 2022, Plaintiffs have not been successful in serving Defendant. As a result, Plaintiffs mailed Defendant a service packet along with a Notice of Lawsuit and Request to Waive Service of Summons

1 on September 8, 2022. **Defendant had until October 8, 2022 to return the signed Waiver of Service**
2 **of Summons. No signed Waiver of Service of Summons has been received as of today's date.**

3 3. Additionally, on September 13, 2022, Plaintiffs contacted Defendant by e-mail
4 explaining that a lawsuit has been filed, explaining that the documents have been mailed and requesting
5 that Defendant return the Waiver of Service of Summons. Defendant responded via e-mail that same day
6 and indicated that he would be retaining counsel and that his counsel would contact Plaintiffs' Counsel.

7 4. On October 12, 2022, Defendant's Counsel Alexander Choulos contacted Plaintiffs'
8 Counsel via email, informing Plaintiffs of his representation of Defendant. Plaintiffs responded on
9 October 12, 2022 confirming receipt of Defendant's Counsel's email, explaining the basis for the
10 ongoing action and requesting Defendant's compliance. **No response was received.**

11 5. On November 15, 2022, Plaintiffs sent a follow up email communication to Defendant's
12 Counsel Alexander Choulos explaining that Defendant still had failed to comply with his obligations to
13 Plaintiffs and requesting that Counsel sign and return a Waiver of Service of Summons. **No response**
14 **was received.**

15 6. To date, Plaintiffs have not been contacted again by Defendant or any counsel
16 representing Defendant.

17 7. As Mr. Choulos confirmed that he is representing Defendant, and has not retracted his
18 representation, Plaintiffs will attempt to contact him once again to obtain an acceptance of service of
19 process. If he continues to fail to respond, Plaintiffs will file a motion respectfully requesting that the
20 Court authorize an alternative method of service.

21 8. Therefore, Plaintiffs respectfully request that the Court issue an Order extending the time
22 for service of the Summons and Complaint for a period of ninety (90) days to allow additional time for
23 Plaintiffs to serve Defendant, to allow Defendant (or his Counsel) time to return the Waiver of Service
24 of Summons, and/or allow Plaintiffs to otherwise request alternate means to effectuate service pursuant
25 to California Code of Civil Procedure Section 415.30(a) and/or 416.10(b).

26 I declare under penalty of perjury that the foregoing is true and correct and that if called upon to
27 testify, I could and would competently testify thereto.

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1 Executed this 29th day of November 2022 at San Jose, California.

2 Dated: November 29, 2022

SALTZMAN & JOHNSON
LAW CORPORATION

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4 By: _____ /S/
5 Matthew P. Minser

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7 Attorneys for District Council 16
Northern California Health and Welfare Trust Fund, et al.

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9 **IT IS SO ORDERED.**

10 The deadline for Plaintiffs to serve Defendant with the Summons and Complaint is hereby
11 extended to March 20, 2023.

12 DATED: December 19, 2022



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14 Honorable Vince Chhabria
15 UNITED STATES DISTRICT COURT JUDGE
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